vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1226 OF 2006
IN
SUIT NO.2503 OF 1990

Laxmichand virji Gala & Anr. ... Plaintiffs

V/s.

Chandrakant Morarji & Ors. ... Defendants

And

Rathod Realty Pvt. Ltd. & Anr. ... Respondents

Mr.Cyrus Ardeshir i/b Mulla & Mulla for Plaintiffs
Mr.Gautam Mehta with Vimal Bhabhada for Defendant
Mr.Vineet Naik for Respondent No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JUNE 22, 2006**

P.C.:

. The Suit has been filed by the Plaintiff for a declaration of their rights in respect of property, viz., final plot No.875 of town planning Scheme IV of Mahim area. The Plaintiffs have obtained certain interim reliefs.

2. The Defendants in the present Motion are seeking an injunction against the plaintiffs restraining them from representing themselves as the owners of the land admeasuring 256 sq.metres together with the building known as Meher-e-Stan on the aforesaid property. The Defendants have also claimed an injunction against the Respondents from utilising the FSI in respect of the land beneath the building Meher-e-Stan.

3. In my view, as rightly submitted by the learned Counsel for the Plaintiffs, the Motion is misconceived. No ad-interim relief can therefore, be granted. The Defendants cannot get any interim reliefs in the suit filed by the plaintiffs for a declaration of their rights in the property. The Defendants would have to file their independent suit as is well settled. The reliance placed by the learned counsel for the Plaintiffs on the judgment of the Karnakata High Court in the case of *B.Lakshminarayan v/s. The Corporation of Cityof Bangalore & Anr.*, **AIR 2006 KARNATAKA 135** is apt.

4. Notice of Motion is therefore, dismissed.

5. The learned Counsel appearing for the Defendants urges that the order of status quo be continued. Refused.